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December 3, 2020

VIA ECFHonorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

I. Background

I have continued to receive call and videoconference data from the parties. I continue to be in communication with the Federal Defenders, Inc. ("Plaintiff") and their

counsel, and the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).¹

My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

II. Telephonic Contact

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

A. MCC

According to the information received from the parties, MCC scheduled 281 calls between November 19, and December 2, 2020. 268 calls were completed, five were attempted but not completed, eight were not completed for unknown reasons. We are working with the parties to better understand the rise in incomplete calls this week. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 341 calls between November 19, and December 2, 2020. 335 calls were completed and six were not completed for unknown reasons. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

IV. Videoconferencing

B. MCC

According to the information received from the parties, MCC scheduled 57 videoconferences between October November 19, and December 2, 2020. 53 were completed as scheduled, one was cancelled by the requesting attorney, and three were not

¹ I held a joint mediation call on December 1, 2020.

completed for unknown reasons. We are working with the parties to better understand the rise in incomplete calls this week. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some privacy and technical issues this week.

C. MDC

According to the information received from the parties, MDC scheduled 56 videoconferences between November 19, and December 2, 2020. 52 were completed as scheduled and four were not completed for unknown reasons. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

V. In Person Visits

Both institutions continue to offer in person counsel visits. Recently both institutions have reported several units have been placed in quarantine status – 2 units at MDC and 5 units at MCC – in order to stem potential COVID spread. Both institutions have also committed to advising plaintiffs when specific units begin and end quarantine to facilitate defense counsel switching to remote access for affected clients.

The Wardens at both institutions have been made aware of recent observations of institutional staff wearing masks incorrectly or not at all and have committed to taking steps to address this issue. I will continue to monitor this situation with the parties.

The government continues to work with the BOP Central Office to gain approval for additional air quality testing. I will continue to work with the parties on this issue.

Respectfully,

/s/ Loretta E. Lynch
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink
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